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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 3989

12 **SHAWN MARTIN WEDWORTH**

A C C U S A T I O N

13 3234 COLLINGSWOOD DRIVE
EL DORADO HILLS, CA 95762

14 PHARMACIST LICENSE NUMBER RPH 47380

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs,
21 State of California.

22 2. On or about August 4, 1994, the Board issued Pharmacist License Number RPH
23 47280 to Shawn Martin Wedworth ("Respondent"). The Pharmacist License was in full force and
24 effect at all times relevant to the charges brought herein and will expire on November 30, 2011,
25 unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 4300 of the Code provides, among other things, that every license issued may be suspended or revoked.

STATUTORY PROVISIONS

6. Section 4301 of the Code states, in relevant part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a

1 plea of nolo contendere is deemed to be a conviction within the meaning of this
2 provision. The board may take action when the time for appeal has elapsed, or the
3 judgment of conviction has been affirmed on appeal or when an order granting
4 probation is made suspending the imposition of sentence, irrespective of a
5 subsequent order under Section 1203.4 of the Penal Code allowing the person to
6 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
7 the verdict of guilty, or dismissing the accusation, information, or indictment.

8 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
9 abetting the violation of or conspiring to violate any provision or term of this
10 chapter or of the applicable federal and state laws and regulations governing
11 pharmacy, including regulations established by the board or by any other state or
12 federal regulatory agency.

13 (p) Actions or conduct that would have warranted denial of a license.

14 7. Section 4022 of the Code states:

15 "Dangerous drug" or "dangerous device" means any drug or device unsafe
16 for self-use in humans or animals, and includes the following:

17 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
18 without prescription," "Rx only," or words of similar import.

19 (b) Any device that bears the statement: "Caution: federal law restricts this
20 device to sale by or on the order of a _____," "Rx only," or words of similar
21 import, the blank to be filled in with the designation of the practitioner licensed to
22 use or order use of the device.

23 (c) Any other drug or device that by federal or state law can be lawfully
24 dispensed only on prescription or furnished pursuant to Section 4006.

25 8. Section 4060 of the Code states, in pertinent part:

26 No person shall possess any controlled substance, except that furnished to a
27 person upon the prescription of a physician, dentist, podiatrist, optometrist,
28 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
pharmacist pursuant to either Section 4052.1 or 44052.2. . . .

9. Section 4327 of the Code states:

Any person who, while on duty, sells, dispenses or compounds any drug
while under the influence of any dangerous drug or alcoholic beverages shall be
guilty of a misdemeanor.

10. Health and Safety Code section 11170 states that no person shall prescribe,
administer, or furnish a controlled substance for himself.

11. Health and Safety Code section 11173(a) provides that no person shall obtain
or attempt to obtain controlled substances, or procure or attempt to procure the

1 administration of, or prescription for, controlled substances, (1) by fraud, deceit,
2 misrepresentation, or subterfuge, or (2) by the concealment of a material fact.

3 DRUGS

4 12. **Hydrocodone** is a Schedule III controlled substance as designated by Health and
5 Safety Code section 11056(e)(4) and a dangerous drug within the meaning of Code section 4022.

6 13. **Levothyroxine** is a dangerous drug within the meaning of Code
7 section 4022.

8 14. **Methadone** is a Schedule II controlled substance as designated by Health and Safety
9 Code section 11055(c)(14) and a dangerous drug within the meaning of Code section 4022.

10 15. **Metoprolol** is a dangerous drug within the meaning of Code section 4022.

11 16. **Vicodin** is a compound consisting of Hydrocodone and Acetaminophen and is a
12 Schedule III controlled substance as designated by Health and Safety code section 11056(e)(4)
13 and is a dangerous drug within the meaning of Code section 4022.

14 COST RECOVERY

15 17. Section 125.3 of the Code states, in pertinent part, that the Board may request the
16 administrative law judge to direct a licensee found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case.

19 FIRST CAUSE FOR DISCIPLINE

20 (Conviction of Crime)

21 18. Respondent is subject to disciplinary action under Code section 4301(l) on the
22 grounds of unprofessional conduct in that on or about August 19, 2010, Respondent was
23 convicted on his plea of nolo contendere in the case titled *People v. Shawn Wedworth*,
24 Sacramento County Superior Court Case No. 10F04034 of violating Penal Code section 508
25 [while employed, fraudulently appropriated for his own use and secreted with a fraudulent intent
26 to appropriate to his own use, property of his employer], a misdemeanor. Said conviction is
27 substantially related to the qualifications, functions, and duties of a licensed pharmacist.
28 Respondent was sentenced to, among other things, 90 days in jail, three years probation, payment

1 of fees and fines, and restitution in the amount of \$5,693.62 to Walgreens. The circumstances are
2 as follows:

3 19. In and between April 2009 and May 2010, while employed as a Pharmacist by
4 Walgreens and working the graveyard shift, Respondent by his own admission, stole
5 approximately 12,000 tablets of Hydrocodone or Vicodin, 516 tablets of Methadone, 50 tablets of
6 Metoprolol, and 50 tablets of Levothyroxine. During that period of time, Respondent possessed
7 the aforementioned controlled substances and dangerous drugs without valid prescriptions. On
8 numerous and regular dates, in and between April 2009 and May 2010, the exact dates are
9 unknown, Respondent self-administered Hydrocodone or Vicodin, Methadone, Metoprolol, and
10 Levothyroxine while he was on duty and sold, dispensed, or compounded drugs while under the
11 influence of dangerous drugs. On at least one occasion, Respondent was video-taped by his
12 employer, Walgreens, pouring unknown pills in his hands and consuming them.

13 **SECOND CAUSE FOR DISCIPLINE**

14 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

15 20. Respondent is subject to disciplinary action under Code section 4301(f) on the
16 grounds of unprofessional conduct in that Respondent committed acts involving moral turpitude,
17 dishonesty, fraud, deceit, or corruption in that, in and between April 2009 and May 2010, while
18 employed as a Pharmacist by Walgreens, Respondent by his own admission, stole approximately
19 12,000 tablets of Hydrocodone or Vicodin, 516 tablets of Methadone, 50 tablets of Metoprolol,
20 and 50 tablets of Levothyroxine.

21 **THIRD CAUSE FOR DISCIPLINE**

22 (Self-Administered Controlled Substances)

23 21. Respondent is subject to disciplinary action under Code section 4301(h) on the
24 grounds of unprofessional conduct in that Respondent self-administered and used the dangerous
25 drugs and controlled substances Hydrocodone, Vicodin, and Methadone and the dangerous drugs
26 Metoprolol and Levothyroxine to the extent or in a manner dangerous or injurious to himself or to
27 the public or used those controlled substances and dangerous drugs to the extent they impaired his
28 ability to conduct with safety to the public the practice of pharmacy, in that in and between

1 April 2009 and May 2010, Respondent self-administered controlled substances and dangerous
2 drugs while he was on duty and sold, dispensed, or compounded drugs while under the influence
3 of dangerous drugs.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 (Violation of Statutes Regulating Controlled Substances and Dangerous Drugs)

6 22. Respondent is subject to disciplinary action under Code section 4301(j) on the
7 grounds of unprofessional conduct in that Respondent violated statutes regulating controlled
8 substances and dangerous drugs in that, in and between April 2009 and May 2010:

9 a. Respondent unlawfully possessed 12,000 tablets of Hydrocodone or Vicodin,
10 516 tablets of Methadone, 50 tablets of Metoprolol, and 50 tablets of Levothyroxine without valid
11 written prescriptions in violation of Code section 4060; and/or

12 b. Respondent prescribed, administered, or furnished the controlled substances
13 Hydrocodone or Vicodin and Methadone to himself in violation of Health and Safety Code
14 section 11170; and/or

15 c. Respondent obtained or attempted to obtain controlled substances, or procured
16 or attempted to procure the administration of or prescription for the controlled substances
17 Hydrocodone or Vicodin and Methadone by fraud, deceit, misrepresentation, or subterfuge or by
18 the concealment of a material fact in violation of Health and Safety Code section 11173.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 (Violated or Attempted Violation, Assisted or Abetted or Conspired
21 to Violate Statutes Regulating Pharmacy)

22 23. Respondent is subject to disciplinary action under Code section 4301(o) on the
23 grounds of unprofessional conduct in that Respondent violated or attempted to violate, directly or
24 indirectly, or assisted in or abetted the violation of or conspired to violate the Pharmacy Act or
25 federal and state laws and regulations governing pharmacy, including regulations established by
26 the board or by any other state or federal regulatory agency, as set forth in paragraphs 18 through
27 22, above, and incorporated herein by this reference.

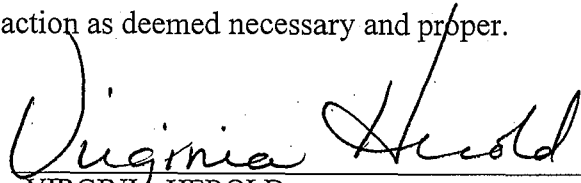
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacist License Number RPH 47280, issued to Shawn Martin Wedworth;
2. Ordering Shawn Martin Wedworth to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and/or
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/5/11


VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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